

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JEROME TALLEY,

Plaintiff,

v.

J. RICHARD CREATURA, et al.,

Defendants.

CASE NO. C15-5755 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable David W. Christel, United States Magistrate Judge (Dkt. 3) and Plaintiff Jerome Talley’s (“Talley”) objections to the R&R (Dkt. 5).

On October 29, 2015, Judge Christel filed the R&R recommending that the Court deny Talley’s motion to proceed *in forma pauperis* because he has three strikes and fails to show that he is in imminent danger of serious bodily injury or death. Dkt. 3. On November 9, 2015, Talley filed objections. Dkt. 5.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Talley objects on the grounds that he is in imminent danger of serious
4 bodily harm. Talley asserts that he is in state court custody, is being prosecuted for some
5 offense, has been declared incompetent, and is subject to involuntary medication. Even if
6 Talley met the extremely high burden for a federal court to interfere with a state court
7 proceeding, Talley has failed to name the proper parties and failed to show that the state
8 actors are not following the proper procedures for incompetent defendants. As such,
9 Talley has failed to show that the R&R should be set aside.

10 Therefore, the Court having considered the R&R, Talley's objections, and the
11 remaining record, does hereby find and order as follows:

- 12 (1) The R&R is **ADOPTED**;
- 13 (2) Talley must pay the filing fee by January 17, 2016 or this action will be
14 **DISMISSED**; and
- 15 (3) Any new motion filed by Talley shall not be noted on the Court's calendar
16 unless the filing fee has been paid.

17 Dated this 17th day of December, 2015.

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20 BENJAMIN H. SETTLE
21 United States District Judge
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